

1 A. Kurtis Kintzel was my senior.

2 Q. Was there anybody else that you would  
3 report to?

4 A. No.

5 Q. How often would you report to Kurtis?

6 A. He explained to me that he had an  
7 open-door policy. And so whenever I needed to  
8 talk to him, he would be available. And I  
9 generally met with him two or three times a week.  
10 I would gather up all my questions that I had.

11 Q. Some organizations have a great deal  
12 of formality and some do not. Would there be set  
13 times during a week that you and Kurtis were  
14 supposed to meet to talk about your area?

15 A. No.

16 Q. Basically, you met with Kurtis  
17 whenever you felt the need to bring matters to  
18 his attention?

19 A. Yes.

20 Q. When you were employed by Buzz,  
21 thinking back to that two-month period in late

1 2002, early 2003, did you have an understanding  
2 as to approximately how many customers Business  
3 Options had?

4 A. No.

5 Q. Did there ever come a time when you  
6 had an understanding as to how many customers  
7 Business Options had?

8 A. No.

9 Q. Did there come a time when it came to  
10 your attention that although the products that  
11 were being marketed were in the name of Business  
12 Options, that income that was generated from  
13 those products was reported as income by Buzz  
14 Telecom to the Federal Internal Revenue Service?

15 A. No. Do you mean for Federal tax  
16 returns?

17 Q. Yes.

18 A. I think gradually I may have come to  
19 that understanding. He never really got too  
20 involved with the tax returns until later.

21 Q. About when?

1 A. Until after I moved over to Avatar.

2 Q. Do you have any knowledge as to  
3 whether Mr. Bortko had any responsibility with  
4 respect to Federal tax returns during that time?

5 A. I don't know.

6 Q. While Mr. Bortko and you were at Buzz,  
7 would it have been Mr. Bortko's job in the first  
8 instance to determine how much was owed to a  
9 state with respect to a regulatory filing?

10 A. During the time that Buzz -- if a  
11 notice came in, I did tell Brian to call and find  
12 out why, when and where and if there was a fee  
13 associated with filing the report.

14 Q. So he would make the telephone call,  
15 find out how much it cost and then let you know?

16 A. Yes.

17 Q. Is that something that you would then  
18 bring to the attention of anyone else?

19 A. No. Brian would request the funds  
20 from financial planning and we would pay the fee.

21 Q. Between you, Brian and the financial

1 planning that you mentioned, the fee would be  
2 paid?

3 A. Yes.

4 Q. Was there -- did you have any  
5 instructions that if a fee or cost exceeded a  
6 certain amount that you were to bring that to the  
7 attention of someone other than Brian and the  
8 financial planning you mentioned?

9 A. No. All fees went straight to  
10 financial planning, regardless of the cost.

11 Q. Who did you interact with at financial  
12 planning?

13 A. Rebecca -- I'm not sure of her last  
14 name. However, I wasn't part of the process. I  
15 would talk to her, you know, because she's a  
16 Federal employee. However, as far as being  
17 involved in the financial planning portion, I had  
18 no input.

19 Q. Do you have any recollection as to the  
20 usual range of fees that you would have to pay on  
21 behalf of Business Options when you were at Buzz?

1           A.       The fees could be anywhere between \$10  
2       to \$300, \$500, something like that.

3           Q.       You were never involved in requesting  
4       fee payments in the nature of \$5,000 or above?

5           A.       No.   Not fee payments.

6           Q.       Were there any payments that involved  
7       amounts of \$5,000 or above?

8           A.       Yes.

9           Q.       What were they for?

10          A.       It wasn't a fee payment.  It was -- I  
11       was going through some files and I noticed that  
12       there was a check for a state that we were having  
13       some problems in.  And the fee was about \$5,000.  
14       It wasn't a fee.  I guess it was a penalty or a  
15       fine of \$5,000.

16          Q.       Was it in the state complaining that  
17       Business Options was late with something?

18          A.       No.

19          Q.       Do you remember what the nature of the  
20       complaint that the state had was?

21          A.       I'm not sure.  But it may have been

1 because of complaints, legal complaints.

2 Q. Complaints from customers?

3 A. Yes.

4 Q. Did you have any responsibility with  
5 respect to complaints that customers made?

6 A. Yes.

7 Q. What responsibility would that be?

8 A. We would just research to find out why  
9 the customer was complaining. We would get the  
10 information from the state PUC and we would do  
11 research on it to find out. And we would make a  
12 decision on if they would do a refund and that  
13 sort of thing.

14 Q. And this occurred while you were at  
15 Buzz?

16 A. Yes.

17 Q. Do you have such a responsibility now  
18 that you're with Avatar?

19 A. Yes. I don't hold that post  
20 personally, but, yes, I do.

21 Q. In other words, are you telling me

1 that when you moved from Buzz to Avatar, the  
2 nature of your duties changed slightly with  
3 respect to dealing with customer complaints?

4 A. There was a time frame when I was  
5 doing everything myself because I had no staff.  
6 Once we began to hire people, I trained them to  
7 do it. And then I would fill in.

8 Q. In other words, if the volume of  
9 complaints was such that the individuals that  
10 were primarily responsible could not handle all  
11 of them, you would step in?

12 A. Not necessarily. Mainly, if they had  
13 a question or they didn't understand something,  
14 or if they -- yes, basically. Or if they weren't  
15 there, then I would fill in.

16 Q. While you were at Buzz, can you run me  
17 through a typical customer complaint scenario in  
18 terms of what would come in and how you would  
19 handle it?

20 A. We would get a complaint from the  
21 state saying that they were investing a complaint

1 from a customer. They were inquiring why they  
2 had our service. And we would look through  
3 several databases and find out what they wanted  
4 to do. If they wanted to disconnect, we would  
5 disconnect them. And depending on if they called  
6 us, the customer service desk, and had requested  
7 to be disconnected, from that period on, we would  
8 request a credit to their account or a refund.

9 Q. During the two to two and a half  
10 months that you were at Buzz, could you give me a  
11 rough approximation of how many such complaints  
12 from customers you had to handle? If it helps,  
13 you know, think in terms of how many you might  
14 have to do in a typical day and we could go from  
15 there.

16 A. Maybe about seven to ten per day.

17 Q. Was there any one state or any group,  
18 small group of states where there would be more  
19 complaints?

20 A. I think Maine was a big one for us.

21 Q. The State of Maine?



1           A.     Yes.

2           Q.     Did you personally have any contact  
3 with anyone at the state PUC relative to the  
4 Maine situation?

5           A.     Not during that time, no.

6           Q.     Do you know whether there was anybody  
7 at Buzz that did have such contact with the State  
8 of Maine?

9           A.     Generally, the lady that was holding  
10 that post would have the contact with the state  
11 PUC.

12          Q.     Who was that?

13          A.     At that time, it was Megan Truesdale  
14 (phonetic). And then after she left, we had  
15 someone that was only there for one day and quit.  
16 And then there was -- there was a young lady that  
17 was already there when I started and she quit two  
18 days after I started. I can't remember her name.  
19 Then Megan came in and Megan held that post. And  
20 then Lisa Green -- I'm sorry. There was Kristen  
21 and her last name is Jaskin (phonetic). She held

1 that post for a while and then Lisa Green took it  
2 over.

3 Q. Megan would handle the complaints from  
4 all state PUCs or just --

5 A. All state.

6 Q. And so the progression from Megan to  
7 Lisa, Lisa is now the person who handles  
8 complaints that come in from state PUCs?

9 A. Yes.

10 Q. Is there anyone else?

11 A. No.

12 Q. When you personally were more involved  
13 in that process, roughly how much of your day  
14 would be spent having to deal with state PUC  
15 complaints?

16 A. There were three functions that needed  
17 to be taken care of, so basically I just split my  
18 day in half. The mornings, I would work on the  
19 complaints. In the afternoon, I would do the  
20 rest of the functions in the office.

21 Q. So a typical day when you were at

1 Buzz, the mornings, you would have to deal with  
2 state PUC complaints, the afternoon would involve  
3 the state regulatory filings and the state tax  
4 filings?

5 A. Yes.

6 Q. You indicated that there was -- that  
7 you would see Kurtis two to three times a week  
8 with questions that you had. What is it that  
9 typically you would bring to Kurtis's attention?

10 A. Generally, matters such as when I  
11 found the \$5,000 check. And it was just attached  
12 to, you know, a letter and shoved in a folder.  
13 And then there were other checks that had been  
14 written months in advance, you know, previously  
15 to the time. And I would talk to him about what  
16 we needed to do with those. Any serious  
17 correspondence or more serious correspondence.  
18 We had a project that we were working on with the  
19 state -- with the State of Tennessee that we were  
20 able to rectify. I brought that to his  
21 attention. Things like that.

1           Q.       What was it that was going on with the  
2       State of Tennessee that you brought to Kurtis's  
3       attention?

4           A.       I think we had -- Business Options had  
5       their license revoked for failure to pay -- file  
6       the annual reports. I think that's what it was.  
7       And we got that taken care of.

8           Q.       So there was a period of time, however  
9       brief, that you understood from documents coming  
10      from the State of Tennessee that Business  
11      Options' authority to do business there had been  
12      revoked?

13          A.       Yes.

14          Q.       But you were able to get Business  
15      Options reinstated?

16          A.       Yes.

17          Q.       Do you recall whether that involved a  
18      payment of some kind of penalty or fee?

19          A.       I don't remember if it was actually a  
20      payment or fee involved. I think they requested  
21      that we have a bond or a letter of credit.

1 Q. Did a problem ever arise with the  
2 State of Vermont?

3 A. Yes.

4 Q. What do you recall about the nature of  
5 that problem?

6 A. I don't remember how it all started,  
7 but evidently it had been ongoing from the time  
8 before I got there. At the time I got there,  
9 they were requesting certain information from us  
10 and we needed to supply that information to them.

11 Q. Was the Vermont situation a matter  
12 that you discussed in any way with Mr. Brzycki?

13 A. No. Never.

14 Q. Vermont didn't even come up during  
15 your three days of interaction with him?

16 A. No.

17 Q. Did there come a time when you  
18 understood that the State of Vermont wanted  
19 Business Options to discontinue service to its  
20 customers in Vermont?

21 A. Yes.

1 Q. Do you have any recollection as to how  
2 that came to your attention?

3 A. I believe I got a phone call from  
4 Vermont, I'm not sure who. And we talked about  
5 it and I told them that Bill was no longer there.  
6 And she says, "Well, we sent Bill everything."  
7 And that's how I found out that it had been going  
8 on for a while. So she sent me what she had sent  
9 Bill.

10 Q. Was that "she" named Sarah Hoffman?

11 A. I do believe it was.

12 Q. And I'm going to show you some  
13 documents, but roughly, do you have any  
14 recollection as to what it was that Ms. Hoffman  
15 sent you?

16 A. Yes, I'm pretty sure. I think it  
17 was -- I'm not sure of what she sent initially.  
18 If I saw it, I would recognize it.

19 Q. Something called a stipulation?

20 A. Yes. I remember seeing that.

21 Q. And there was an order from the Public

1 Service Board?

2 A. Yes. I remember seeing that.

3 Q. Did there also come a time during this  
4 period when you were at Buzz Telecom that a  
5 letter came from the Federal Communications  
6 Commission?

7 A. Yes.

8 Q. Was that letter -- what do you recall  
9 about that letter?

10 A. I remember -- basically, I just  
11 remember getting a letter from the FCC. I'm not  
12 even certain how that situation even came about.  
13 I don't know if it was because of Vermont. I  
14 don't recall if it was a separate issue. I don't  
15 remember how it initially started.

16 Q. Going back to the Vermont matter. Was  
17 the Vermont matter anything that you discussed  
18 with Kurtis?

19 A. Yes.

20 Q. And I take it, the first discussion  
21 didn't occur until sometime after the telephone

1 call you had with Sarah Hoffman?

2 A. Yes. After she sent the documents to  
3 me.

4 Q. So when she sent the documents to you,  
5 what did you do vis-a-vis Kurtis?

6 A. I took them in and we sat down and  
7 looked at them. We decided what we were going to  
8 do.

9 Q. With respect to the letter that came  
10 from the FCC, did you bring that letter to  
11 Kurtis's attention?

12 A. Yes, I'm sure I did. I don't remember  
13 the exact scenario but, yes.

14 Q. I'm going to show you some documents  
15 and then we'll talk -- I'll have some questions  
16 about those (indicating).

17 The first document I'm going to show  
18 you is from the State of Vermont Department of  
19 Public Service, dated November 19, 2002. It's  
20 addressed to William -- Mr. William Brzycki and  
21 it's a three-page letter. And my first question



1 to you is whether or not you have ever seen this  
2 letter before?

3 A. Yes.

4 Q. Was this -- is this the letter that  
5 you were referring to that Ms. Hoffman sent you?

6 A. I do believe it was. As I recall,  
7 this was the initial one. She sent them or she  
8 faxed them, I don't remember.

9 Q. As the result of receiving this  
10 letter, could you walk us through what you did?

11 A. Well, we basically decided that we  
12 needed to send the letters out to our customers  
13 letting them know that we would no longer be  
14 operating in the State of Vermont. And we  
15 developed a rough-sketch program, so to speak, of  
16 what steps needed to be done.

17 Q. When you say "we," I take it there's  
18 somebody in addition to yourself that was  
19 involved here?

20 A. Initially, I met with Kurtis. And  
21 then later on, I discussed it with Lisa Green.

1           Q.       When did Lisa Green come into the  
2 picture?

3           A.       Lisa was hired sometime in November.

4           Q.       And what was it that Lisa was hired to  
5 do?

6           A.       Lisa was going to handle the tariffs  
7 and regulatory-type issues.

8           Q.       With respect to the tariffs, what was  
9 Lisa supposed to do?

10          A.       She was going to be the one that made  
11 the modifications to the tariffs as the state  
12 requested them. And she would be getting Buzz  
13 licensed to do business in other states.

14          Q.       Would it be fair to say that what Lisa  
15 would do is take a tariff filing that had already  
16 been approved someplace else and then modify it  
17 for the next state?

18          A.       Yes.

19          Q.       And if the state came back and said,  
20 "We need X or Y," it would be Lisa's  
21 responsibility to take care of that?

1           A.       Yes.

2           Q.       With respect to the tariffs that Lisa  
3 was involved with, what, if anything, did Lisa do  
4 to your knowledge with respect to the charges  
5 that were to be -- that were reflected in a  
6 particular tariff, the charges to be imposed on  
7 customers for the various service offerings that  
8 Buzz was going to make?

9           A.       Back then, all we were really doing  
10 was just mirroring the charges that were already  
11 in the tariff, in another tariff. And we would  
12 submit it to the state. And if they had any  
13 changes, we would just make the changes. But we  
14 didn't set any charges or fees or anything like  
15 that. All that was already established.

16          Q.       So basically the most recent tariff  
17 that was on file, say, in state A, you would take  
18 that, change a couple of the words to reflect  
19 that it's now going to be state B?

20          A.       Right.

21          Q.       And then you wouldn't tinker with the

1 charges that were going to be imposed on  
2 customers?

3 A. Not unless the state asked us to  
4 modify anything, we would make the changes.

5 Q. I'm going to ask some specific  
6 questions about the letter.

7 A. Okay.

8 Q. Focussing on question one, subpart A,  
9 it speaks to initiation of discontinuance  
10 process. And it states "Upon board approval of a  
11 settlement, BOI was to initiate the procedure  
12 outlined in 47 CFR, section 63.71 for terminating  
13 service to Vermont customers who are currently  
14 being served by BOI.

15 And then it goes on from there.

16 A. Uh-huh.

17 Q. With respect to section 63.71 of 47  
18 CFR, do you know whether anyone at Buzz looked it  
19 up to see what it said?

20 A. I'm not sure if Lisa did and I'm not  
21 sure if Kurtis did. And I'm sure that I didn't



1 look it up until we were told that they weren't  
2 satisfied with our letter that we sent to the  
3 customers and that there were deficiencies in it.  
4 And where I needed to go look to find out what  
5 actually needed to be in the letter. And then I  
6 looked it up and found that there was a section  
7 that was missing.

8 Q. And that process that you just  
9 described would have taken place sometime in  
10 January or thereafter of 2003?

11 A. No. Actually it wasn't in January.  
12 It was December, I think. It was the end of  
13 December that I think we were actually notified  
14 that -- no. It was actually in December.  
15 Someone from Vermont called us and told us that  
16 they didn't accept our letter. And I do believe  
17 that when we sent the letter to the FCC, we were  
18 told by somebody there that it was lacking.

19 Q. So you got the information from two  
20 sources that there was some problem?

21 A. Right.

1 Q. And as a consequence of that, you then  
2 looked up section 63.71 to see what it said?

3 A. Right. And then we -- I know Lisa had  
4 a conversation with someone from there. And I'm  
5 sure I did, but I don't remember if it was John  
6 Mincoff or John Adams, it was someone. And we  
7 asked what we could do to fix this. And that's  
8 when it was suggested that we apply for a waiver.

9 Q. Okay. The person who called from the  
10 State of Vermont, would that have been Sarah  
11 Hoffman?

12 A. I do believe so.

13 Q. All of your dealings with the State of  
14 Vermont were with Sarah Hoffman?

15 A. I believe so.

16 Q. You mentioned John Adams and John  
17 Mincoff as persons that you personally spoke with  
18 at the FCC?

19 A. Yes.

20 Q. Was there anybody else at the FCC that  
21 you personally spoke with?

1           A.     Peter Wolfe, I spoke to him. And  
2     there was another lady, I can't remember her name  
3     right off the bat, that I spoke with.

4           Q.     With respect to Peter Wolfe, did you  
5     speak with him about section 63.71 or was it  
6     another matter?

7           A.     I think that the times that I spoke to  
8     him, it was concerning when we would provide him  
9     with the information because we were running  
10    behind. And I would ask him for an extension and  
11    that sort of thing.

12          Q.     The letter that you have in front of  
13    you, the November 19 letter, is this a letter  
14    that you recall bringing to Kurtis's attention?

15          A.     Yes.

16          Q.     Did you and he read the letter over  
17    together?

18          A.     I believe so. I'm not certain. I'm  
19    not -- I may have put it in his box and he read  
20    it on his own. But I do remember a time when he  
21    and I sat down together and looked at it.



1 Q. As a consequence of looking at it, was  
2 there some discussion as to what you were going  
3 to do about this?

4 A. Yes.

5 Q. And what is it that you recall from  
6 that discussion in terms of what you were going  
7 to do?

8 A. He developed a mini program based on  
9 what they wanted us to do. So it would be easier  
10 for us to keep track of what stage we were in.

11 Q. And by developing a mini program, are  
12 you talking about something on a computer?

13 A. Yes.

14 Q. A computer program?

15 A. No. Not a computer program, it was  
16 just a little -- in Word. It just said do this  
17 first, do this second, do this third.

18 Q. An action plan of some kind?

19 A. Yes.

20 Q. Do you personally still have a copy of  
21 that action plan?